

✓ IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No. 15601 of 1998

M.C. Aiyanna, Major
Coffee Planter
California Estate
Kutta Post, Virajpet Taluk
Kodagu District

.. PETITIONER

(By Sri A.K.Subbaiah, Advocate)

- Vs -

The Tahasildar
Virajpet Taluk, Virajpet
Kodagu District

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.. RESPONDENT

(By Sri N.P.Singri, HCGP)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to direct the respondent to pass appropriate orders on the application of the petitioner to transfer the khatha of the lands purchased by the petitioner from its then owners and etc.

This petition coming on for preliminary hearing this day, the Court made the following:

ORDER

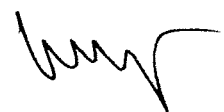
Though this petition is posted for preliminary hearing, with the consent of the learned counsel appearing for the parties, it is taken up for final hearing and disposed of by this order.



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2. In this petition, the grievance of the petitioner is that though the petitioner had made an application for transfer of khatha in respect of wet lands measuring 3 acres and 4 cents and 75 cents of bane land in Sy.No.60/1 of Kutta village, and bane land of 4 acres and 3 acres and 50 cents of dry lands in Sy.No.59/3 of the same village pursuant to the purchase of the said lands by the petitioner by means of a registered sale deed dated 26th February 1970, till now his application has not yet been disposed of.

3. Sri Subbaiah, learned counsel for the petitioner submits that though the petitioner has been making repeated requests with the respondents to transfer the khatha in respect of the lands referred to above in his favour, the respondent has issued an endorsement dated 4th January 1993, a copy of which has been produced as Annexure-B informing the petitioner that his request for transfer of khatha cannot be considered unless the respondent receives necessary instructions from the Government on that behalf. He further submitted that the petitioner waited for sufficiently a long period expecting the



Government would give necessary instructions to the respondent instructing him to transfer the khatha in respect of the lands in question in favour of the petitioner and till now since no instructions have been given by the Government, the petitioner is constrained to approach this Court.

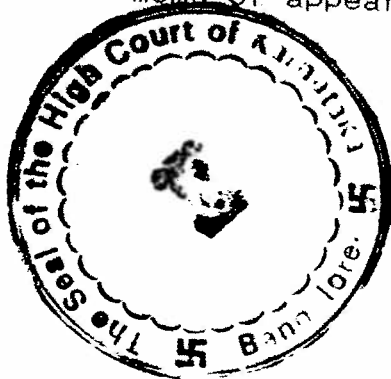
4. Sri N.P.Singri, learned Government Pleader submits that the petitioner is not entitled for transfer of khatha in respect of the lands in question.

5. Since the petitioner has purchased the lands in question by means of registered sale deed dated 26th February 1970, the respondent is under a statutory obligation to consider the request of the petitioner for transfer of khatha. It is not open to the respondent to keep an application for transfer of khatha pending for an indefinite period. Under the Act the power is conferred on the respondent to decide whether the khatha in respect of the land should be transferred in favour of the applicant or not. Therefore, the only order that can be made at this stage is to direct the respondent to consider the

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request made by the petitioner for transfer of khatha in respect of the lands referred to above. The respondents are directed to consider the request of the petitioner as expeditiously as possible and at any event of the matter not later than four months from the date of receipt of a copy of this order. Accordingly, this petition is allowed and disposed of.

6. Sri N.P.Singri, learned Government Pleader is given four weeks' time to file his memo of appearance.



Sd/-
JUDGE

pmg/